

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BERWYN CAPITAL INVESTMENTS, INC.	:	CIVIL ACTION
	:	
	:	
v.	:	
	:	
SHORE VENTURE GROUP, LLC;	:	
REVERSEBID.COM, LLC;	:	
TERRENCE J. KEPNER;	:	
and MATTHEW J. DYE	:	
	:	
	:	
v.	:	
	:	
AUTHENTIDATE HOLDING CORP.	:	
and AUTHENTIDATE, INC.	:	NO. 01-cv-00691-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

July 18, 2006

Plaintiff, Berwyn Capital Investments, Inc., has filed a motion for an award of counsel fees and expenses against the defendant Shore Venture Group, LLC. The motion will be denied, for several reasons.

Plaintiff concedes that Fed. R. Civ. P. 54(d)(2)(B) contemplates that motions for attorney's fees be filed within 14 days after entry of judgment, and that the deadline in this case was May 15, 2006. While it is probable that this court would have discretion to grant even an untimely motion for counsel fees, the circumstances of this case do not warrant such an exercise of discretion. In seeking an award totaling \$58,358.29, plaintiff is attempting to obtain reimbursement of fees expended in pursuit of its claims against the Bitwise defendants, rather

than the much more modest amount which might reasonably be attributed to the pursuit of its claims against Shore Venture. Shore Venture's only breach of the agreement related to its failure to cause Bitwise to issue half of the first tranche of warrants in plaintiff's name - a failure which, ultimately, was the fault of Bitwise. Moreover, the (turgid) language of the letter agreement between plaintiff and Shore Venture authorizes an award of attorneys' fees only if Shore Venture failed to pay over compensation actually received; it is far from clear that the circumstances of this case satisfied that definition. In any event, Shore Venture had no obligation to pay attorneys' fees plaintiff incurred in pursuit of Bitwise, or in handling fee disputes with plaintiff's former counsel.

The motion for counsel fees will therefore be denied, as untimely. An Order follows.

